

Approved by Mayor & Council on April 22, 2008

Chapter 117: Recycling & Refuse

117-1 STATEMENT OF CITY INTENT

It is the intent of the City to require all residents within the incorporated areas of the City to have refuse collected and disposed of in a proper, sanitary and efficient manner; to provide all residents with a sanitary and efficient means of having their refuse collected and disposed of; to provide means for all residents to recycle reusable items; to eliminate illegal dumping; to provide effective and efficient methods of collecting funds for the costs of the recycling and refuse collection program; and to promote the health, safety and welfare of the citizens of the City.

It is hereby declared, found and determined by the City, that the refuse collection, recycling and yard waste collection services provided by the City pursuant to this Ordinance and corresponding collection contracts including, but not limited to, the accomplishment of the intents stated herein, shall and do constitute a special benefit to residential properties within the City which is equal to, or in excess of, the actual costs of providing such recycling and refuse collection and disposal service and which such facilities and services specially benefit residential properties.

It is the intent of the City that the collection and hauling of recyclables and refuse shall be conducted only by those businesses authorized to do so by the City.

117.2 DEFINITIONS

For the purposes of this Ordinance, the definitions contained in this section shall apply unless otherwise specifically stated. The words “shall” or “will” are mandatory and not discretionary. For the purpose of these specifications, the following definitions shall apply:

1. Bulk Trash is not collected as “residential refuse” and means any solid waste that requires additional management due to bulk or weighs greater than fifty (50) pounds. Such waste shall be collected by a special program administered by the Department of Public Works (DPW) and shall not be collected under the City’s Residential Refuse and Recycling Collection Program.

2. City Engineer refers to the duly appointed City Engineer of the City of Hagerstown Maryland or his authorized representative, acting within the scope of the particular duties entrusted to them.
3. Co-mingled refers to the mixing of materials designated for recycling. The recyclable materials buyer shall sort the recyclables into homogenous types of recyclable materials for reuse as new products.
4. Commercial Property is not eligible for the City recycling and refuse collection service and means property including, but not limited to, all hotels, motels, commercial businesses (wholesale/retail), manufacturing, industrial and institutional enterprises of all types. Commercial properties shall be all properties other than those listed as residential in this Ordinance and the policies of the City of Hagerstown. Commercial property owners shall contract privately for solid waste collection services.
5. Construction and Demolition Debris means waste materials generally considered to be non-water soluble and non-hazardous in nature, including but not limited to: steel, glass, brick, concrete, asphalt materials, pipe, gypsum wallboard, and lumber, resulting from the construction or demolition of a structure or from the actual construction of a structure.
6. Contractor means those firms specially authorized by contract by the City of Hagerstown to provide recycling and refuse collection services within the City limits.
7. Customer shall mean all natural or lawful persons, corporations, partnerships, or any other legal entity owning residential property within the City, and all other persons subscribing to residential recycling and refuse program as provided by the contractor and the terms of this Ordinance.
8. Department as used herein shall mean the City of Hagerstown Department of Engineering and Code Administration.
9. Dumpster is a large steel waste receptacle designed to hold recyclables or refuse and is typically emptied by a front-loading garbage collection truck. Sizes can vary from approximately three (3) cubic yards to more than 10 cubic yards.
10. Hazardous Waste shall mean wastes that are inherently dangerous to handle or dispose and not accepted at landfills receiving City residential refuse. These wastes include toxic chemicals, biohazards, corrosive materials, reactive chemicals, flammable wastes, explosives, and certain items found in the home including, but not be limited to: pool chlorine, paint thinner and pesticides.

11. Holidays refers to days when no recycling or refuse collection will be performed including New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day and Christmas Day. In the event a holiday coincides with a landfill Sunday closing, there will be a substitute holiday unless otherwise directed by the City Engineer.
12. Public Nuisance shall mean any accumulation of refuse, trash, rubbish, garbage, abandoned or lost property or hazardous materials placed not in compliance with the regulations of this Ordinance.
13. Public Street or Alley as used herein includes any street, alley or right-of-way dedicated to public use. The contractor will travel such public streets or alleys to make collections at all dwelling units placing trash and or recyclables at the curbside for collection. This shall include dead end streets and alleys. The contractor is not expected to enter any private streets, alleys, or other right-of-ways in carrying out the responsibilities of the collection contract. Determination of eligibility to receive municipal trash collection service for residents who live on private streets or courts shall be in accordance with City policy. The City has entered into agreements with certain developments to collect on private streets or courts.
14. Receptacle or Collection Container shall mean and include any steel, plastic, aluminum, or galvanized receptacle or bin manufactured for the purpose of storing residential recycling or refuse that allows for easy lifting with two (2) handles and capacity of not more than 35 gallons or weighing more than 50 pounds when filled with refuse or recycling. City issued bins or totes shall be used when applicable and totes are exempt from the maximum capacity restriction of 35 gallons. For the purposes of this Ordinance, a receptacle may be secured, leak proof plastic bags, manufactured for the purpose of securing household refuse, of sufficient strength to hold its contents without tearing or allowing the contents to spill, leak or otherwise escape from the bag.
15. Recycling Materials or Recyclables shall mean any materials collected by the contractor for the purpose of materials recycling and reuse. Recycling materials shall include, but not be limited to: newspapers, clear, green and brown glass containers, aluminum cans and foil, steel cans, #1 and #2 plastic bottles, cardboard, magazines, phone books and yard waste (defined below).
16. Refuse, Solid Waste, Garbage, Trash, Household Refuse or Rubbish may be used interchangeably and refer to residential items that cannot be recycled. This includes

animal, fruit and vegetable waste resulting from the handling, storage, preparation, cooking and consumption of food; rags; cartons; rubber; leather; diapers; small appliances (less than fifty (50) pounds in weight); and waste generated from normal residential household activities.

17. Residential Recycling and Refuse Collection Service shall mean service to residential dwelling units consistent with the policies of the City of Hagerstown.
18. Residential Units or Property: A single unit providing complete, independent living facilities for one or more persons including permanent provision for living, sleeping, eating, cooking or sanitation.
19. Sort refers to the separation of the recyclables into segregated bins or storage areas, thus separating the recyclables into homogenous types of recyclable materials.
20. Totes refers to 35, 65 or 95 gallon plastic roll-out carts specifically manufactured as a container for recyclables or refuse. Totes include connected lid, wheels, and one piece handle.
21. Yard Waste shall mean solid waste that is an accumulation of lawn grass, shrubbery cuttings, clippings, leaf rakings, tree branches, bushes or shrubs, green leaf cuttings, fruits or other vegetative matter generally created as refuse in the care of lawns and yards that does not exceed three(3) feet in length and three (3) inches in diameter and fifty (50) pounds in weight. Bundled limbs and tree trunks from tree trimmings not exceeding three (3) feet in length and three (3) inches in diameter may be placed at the curbside for residential pick-up.

117.3 RESIDENTIAL RECYCLING & REFUSE COLLECTION PROGRAM

The purpose of the Residential Recycling & Refuse Collection Program is to promote the common interests of the citizens of the City and to provide for the collection and disposal of recycling and refuse through the levy of a Recycling & Refuse Service Fee as further provided for herein, and to promote the health, safety and welfare of the citizens and residents of the City.

The Mayor & Council has the authority necessary to carry out the purposes of this Ordinance. The City Council is authorized to the following:

1. Enter into contracts with any qualified person, firm, or corporation for the furnishing recycling and refuse collection services within the boundaries of the City.
2. Levy and collect without referendum, Recycling & Refuse Service Fee as required for the collection and disposal of recyclables and refuse within the City.

3. Authorize the City Engineer to develop standards and procedures wherein residential collection is administered, and to develop and administer contracts with qualified collection contractors.
4. Establish a Recycling & Refuse Service Fee for the collection and disposal of recyclables and refuse as defined in this Ordinance. The Recycling & Refuse Service Fee shall cover the costs of refuse collection and disposal, mixed paper and comingled plastic/aluminum/glass collection and disposal, yard waste collection and disposal, dumpster programs, and other related miscellaneous services and administrative costs. The Recycling & Refuse Service Fee shall be amended by Administrative Action through adoption of the annual City Budget or by Mayor & Council Resolution.
5. The Mayor and Council shall enter into a contract with any contractor, provided that such contractor is, in the judgment of the Mayor and Council, reliable and sufficiently qualified to undertake and carry out the terms of the contract and to collect, remove and dispose of all accumulations of recyclables and refuse within the corporate limits of the City. Such contract shall contain such terms and conditions as will require the contractor to collect, remove and dispose of recyclables and refuse at regular stated intervals and in such a manner as not to create a public nuisance or interfere in any way with the rights or privileges of any person.

117.4 DESCRIPTION OF SERVICES

1. Residential property within the corporate limits of the City shall be provided refuse collection services as provided for by this Ordinance, and in accordance with the policies of the City. Participation in the recycling program is voluntary. The City shall provide either directly, or indirectly through agreements with contractors, the following services:
 - A. Refuse Collection
 - B. Yard Waste Recycling Collection
 - C. Mixed Paper Recycling Collection
 - D. Comingled Glass/Plastic/Aluminum Recycling Collection
 - E. Bulk Trash Collection (DPW Program)
 - F. Annual Dumpster Program (DPW Program)

2. The City's residential recycling and refuse collection program will not collect any items specifically restricted or prohibited by the receiving landfill. Items not collected include, but are not limited to the following:
 - A. Hazardous materials, biohazard materials, or items containing refrigerant.
 - B. Items collected under the "Bulk Trash" program including but not limited to: appliances and furniture over 50 pounds, tires, computer equipment and electronics, mattresses, building or demolition waste, etc.
 - C. Recycling or refuse from non-residential or out of City property.
 - D. Containers or items weighing over 50 pounds.
 - E. Recycling or refuse from private streets or alleys unless expressly agreed to by the City.

117.5 SERVICE FEE PAYMENT/PROPERTY OWNER RESPONSIBILITY

1. Recycling & Refuse Service Fee

Consistent with City policy, all property owners of improved residential property within the City shall subscribe to recycling and refuse collection and disposal service, and shall be subject to the levy of a Recycling & Refuse Service Fee as further set out pursuant to this Ordinance. It shall be the responsibility of the property owner of a residential dwelling unit to pay or cause to be paid to the City, the Recycling & Refuse Service Fee incurred by each separate residential unit(s) for the benefits offered or received by such dwelling unit for refuse collection and recycling collection. Failure to pay the Recycling & Refuse Service Fee shall be considered a violation of this Ordinance and may be collected as provided for further herein, or as otherwise provided for by the laws of the State of Maryland.

2. Set Out Time and Placement of Materials for Collection

It shall be the duty of the residential property owners and their tenants that no earlier than 4:00 p.m. on the eve of the day on which the contractor shall collect recycling or refuse on their street in the City, to place their recycling or refuse in the public way in front of their premises as close as possible to the curb, or collection point designated by the City Engineer, so as to be of easy access to the contractor. Placement of these materials shall

not block the free passage (minimum 36" width) of pedestrians on the public sidewalk. As soon as possible after the containers are emptied, the property owner and their tenants shall return such containers out of public view. Any persons placing garbage and/or household refuse containers out for collection prior to 4:00 p.m. on the eve of the collection shall be guilty of a municipal infraction.

3. Receptacles for Collection and Refuse Storage

It shall be the duty of the residential property owners and their tenants to provide approved receptacles (as defined herein) to contain all refuse generated from residences in accordance with the provisions herein. It shall further be the duty of the residential property owner(s) to provide receptacles to store recycling and refuse (until the appropriate set-out time for collection) that are not visible from the public right-of-way or street. Recyclable materials shall be placed in City-issued bins or other containers consistent with City policy.

117.6 COLLECTION OF THE RECYCLING & REFUSE SERVICE FEE:

1. The Recycling & Refuse Service Fee shall be imposed against the owners of all residential units receiving recycling and refuse collection in the corporate limits of the City that have a "Certificate of Occupancy" approval or an active public water service account established with the City of Hagerstown unless specifically excluded in 117.4.2. above.
2. The City Treasurer shall administer the billing and collection of the Recycling & Refuse Service Fee for residential units. All delinquent bills are chargeable against the owners of the residential units and shall constitute and are hereby imposed as liens against all such residential properties.
3. The property owner(s) of record where the solid waste and household refuse is collected is/are responsible for the payment of said Recycling & Refuse Service Fee. Unpaid Recycling and Refuse Service Fees shall constitute a lien on the property and may be collected in the same manner as municipal taxes.

117.7 DEPOSITING REFUSE ON PUBLIC WAYS OR LAND PROHIBITED

It shall be unlawful for any person to throw, dump or deposit any trash, junk or other refuse upon any public street, public right-of-way, or public alley within the City or upon any land owned by the City.

117.8 SERVICE ELIGIBLE TO CITY RESIDENTS ONLY

The recycling and refuse collection program is available to residential properties within the corporate limits of the City of Hagerstown. It shall be unlawful for any person to transport refuse or recycling from a residence or commercial establishment outside the City into the City for collection by the City's residential recycling and refuse collection program, bulk trash program, or dumpster program. It shall be unlawful for any person to set out commercial refuse or recycling (regardless of the location of origin) for collection by the City's residential recycling and refuse collection program.

117.9 DUMPSTER ENCLOSURES REQUIRED

For all dumpsters in the C3 "Commercial Central" zoning district of the downtown and all new dumpster or central trash drop-off areas established in the City, an enclosure is required. The intent of the enclosure is to block the dumpster from being visible from the public right-of-way or street. Enclosure shall be installed per the standard provided in the Department's Public Ways Construction Standards and Engineering Guidelines manual for all new installations. Enclosures around existing dumpsters in the C3 "Commercial Central" zone may be of modified design if the intent described above is met and is approved by the City Engineer.

117.10 REGISTERING HAULERS

When properties are specifically exempted herein from the City's Residential Recycling & Refuse Collection program, the property owners shall contract privately for solid waste collection services. Those properties and the private hauler shall be registered with the Department.

117.11 REFUSAL OF SERVICE

Any customer, or any tenant of a customer, who regularly violates the terms of this Ordinance including but not limited to Sections 117.5.2 (set out time and free passage) 117.5.3 (receptacles and storage not visible) 117.7 (depositing refuse on public ways) may be refused recycling and refuse service upon 90 day advance notification by the City Engineer. The City Engineer may adopt policies to refuse or terminate service to any customer when the number of units at a particular location would place an undue burden on the Recycling and Refuse Collection Program.

117.12 PENALTIES

Unless specifically punishable as a misdemeanor, any violation of this code shall be considered a municipal infraction and subject to the regulations as set forth in Chapter 1, General Provisions, Article III, Municipal Infractions of the Code of the City of Hagerstown, Maryland. The maximum fines in dollars imposed for the violation of the below referenced "Code Section" shall be as follows:

Municipal Infraction Fines:

<u>Code Section</u>	<u>Subject</u>	<u>Fines</u>
117.4.2	Improper use of City service	\$200.00
117.5.2	Set out time and placement for collection	\$200.00
117.5.3	Receptacles for collection and refuse storage	\$200.00
117.7	Depositing refuse on Public Ways/Land	\$200.00
117.8	Service to City residents only	\$200.00
117.9	Dumpster enclosures	\$100.00
117.10	Registering haulers	\$100.00